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AN
ADDRESS

DELIVERED BEFORE THE
MASSACHUSETTS SOCIETY

FOR THE
SUPPRESSION OF INTEMPERANCE,

MAY 27, 1830.

BY JAMES TRECOTHICK AUSTIN.

Rectius occupat
Nomen beati, qui Deorum
Muneribus sapienter uti.

BOSTON ;
PRESS OF JOHN H. EASTBURN.

1830.

DISTRICT OF MASSACHUSETTS, TO WIT:

District Clerk's Office.

BE IT REMEMBERED, That on the thirty-first day of May, A. D. 1830, in the fifty-third year of the Independence of the United States of America, John H. Eastburn, of the said district, has deposited in this Office the title of a book, the right whereof he claims as proprietor, in the words following, to wit :—

AN ADDRESS delivered before the MASSACHUSETTS SOCIETY for the SUPPRESSION OF INTEMPERANCE, May 27, 1830. By James Trecothick Austin.

Rectius occupat
Nomen beati, qui Deorum
Muneribus sapienter uti.

In Conformity to the Act of the Congress of the United States, entitled "An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and proprietors of such Copies, during the times therein mentioned ;" and also to An Act entitled "An Act supplementary to an Act, entitled, An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books to the Authors and Proprietors of such Copies during the times therein mentioned ; and extending the benefits thereof to the Arts of Designing, Engraving and Etching Historical and other Prints."

JOHN W. DAVIS, } Clerk of the District
of Massachusetts.

A D D R E S S .

MR. PRESIDENT AND GENTLEMEN OF THE SOCIETY,

Whatever doubts may be anywhere entertained concerning the probability of accomplishing to the extent of your wishes, the objects of your association, none can exist as to their value and importance.

Your efforts are intended to strike one misery from the catalogue of earthly evils ; to erase one crime from the record of human depravity ; to dry up one source of sorrow and suffering and sickness and death. It is your high and generous purpose to save the soul from sin ; the intellect from degradation ; the living body from bearing about the corruption of the grave ; to prevent the annihilation of those affections, which make good fathers and kind husbands and dutiful children ; to preserve for the republic sound and healthy citizens to enjoy the advantages of freedom, and competent to defend them.

These humane and honorable objects are not even to be attempted, without exertions of corresponding magnitude. The enemy you contend with, is that ancient, implacable, desolating foe, terrible in strength, prolific in stratagem, artful, insidious, rapacious, cruel ; boasting in malignant triumph of nations melted by his breath ; of vast congregations of victims expiring in his chains ; of a miserable multitude wearing the livery of servitude, and indulged with a little interval of delay, till in their turn they shall be crushed beneath his wheels ; of a crowd of ardent and high spirited youth, allured to the fatal field by the gay banners and stirring music, and deceptive hi-

larity of the scene, and entering as recruits under the deadly delusion, that their own free will can mark the limit of their servitude.

Over such an enemy, Gentlemen—who is there that does not wish you success? Who will not bid you God-speed in your crusade against a worse than Paynim foe?

Where is that piety, that will not pour forth its solicitous devotions for a blessing on your voluntary labors? Where is that patriotism that does not sympathize in your exertions to redeem the character of the country? Where is that humanity that will not encourage you in alleviating the wretchedness and poverty which follow in desolation the ravager you attempt to exterminate?

Yes, Gentlemen, Religion, and Patriotism and Humanity are your allies in this holy war.

Humanity lifts up her voice in behalf of your charitable enterprise. The temporal distress, which intemperance scatters in its train is seen in too many living examples not to spare us the painful recital. The sufferings of the guilty cannot be witnessed without compassion, and the guiltless equally involved in the misery, implore you with the resistless eloquence of innocence to tear from them that Tytean vulture preying on their hearts.

Patriotism urges you to persevere. If the consequences of a single case is confined to a limited circle, the number of such cases is matter of common solicitude. Everywhere, but most truly under our free institutions there is an indissoluble connexion between the morals of the community, and the prosperity of the state. A reckless waste or profligate consumption of private resources undermines the prosperity of the country. That equality of rights, which is at the foundation of our civil polity, will become practically impossible, if any large portion of citizens are habitually incompetent to the intelligent exercise of their political duties.

Religion encourages you. She bids you preserve the Divine image from degradation and shame; to keep alive that intellect, which assimilates man with his maker; to purify and

ennoble that etherial nature, which is to survive the triumph of the tomb, and exist through the boundless ages of eternity.

All good men, of all classes and conditions, with one heart aid you with their prayers, that you may eradicate that leprosy of the soul, which alike contaminates public morals, private virtue, national prosperity, and domestic happiness, and obliterates all sense of obligation to man, or duty to God.

It is a subject of honorable satisfaction to you, that you led the way in this grand expedition of humanity. You were centinels that sounded an early alarm. You startled the drowsy multitude from their sleep of security. You warned them of the incursions of the monster that deceived and destroyed them.

Habits were slowly and almost imperceptibly formed. Temptations multiplied. Customs, in themselves innocent, were perverted. Individuals were overwhelmed. Families were disgraced. Parents felt

How sharper than a serpent's tooth it is,
To have a *graceless* child.—————

Children were abandoned to worse than the orphanage of the grave. Diseases abounded. Pauperism increased. Crimes multiplied. The country was suffering under the contamination of an imputed national vice, and yet all this accumulation of misery passed 'without our special wonder,' as if it was the unavoidable consequence of human degeneracy ; as if it sprang by necessity from the depraved character of unregenerated man. Wiser sentiments, more generous feelings influenced your minds. You judged truly that it was the result of ignorance, that might be dispelled, of manners that might be reformed, of vice that might be eradicated : and you nobly met these enemies of human happiness, and fearlessly braved all that violence and wrath which he always must encounter, who arms himself against the vile passions, and the base interests, and the insulting audacity of bad men.

It is more gratifying to pass to the result of your labors, assisted, as they now are, by the applauding voice of the com-

munity, and the co-operation of numerous similar associations through a great portion of the country.(Note A)

Public attention is awakened to the artifice as well as strength of the foe. The folly of a parley is ascertained. Personal temperance, like female honor, is no subject for safe deliberation. There is now less hazard of surprise. None may be taken without warning ; or carried off without the struggle of many friends. Public opinion—the great controller of laws—is enlisted on your side. Its weight falls heavily on offenders, and suspected offenders. Not only to candidates for public honors, but to persons in every trade, business and profession of life, a well founded charge of intemperance is ruinous. Affairs that could not, as was once supposed—go on but with the aid of stimulants, now succeed better without them. The farm, the workshop, the manufactory are now best conducted, where there is most abstemiousness.(Note B)

Ancient habits at festivals and funerals and hospitable meetings are changing. Fashion, the great modeller of manners has been redeemed from its insidious neutrality. It is now decidedly vulgar to pass the limits of moderation. The character of the people has improved. We shall not be subjected to the mortification of hearing again the sarcastic remark of a recent traveller in our country, with any painful apprehension of its truth, That the American stage coach stops every five miles to water the horses, and *brandy the gentlemen !*

The success of your efforts gives great reason for exultation but none for supineness. There is much yet to be done; much that requires the solicitude of the thoughtful, the exertions of the active, and the influence of the powerful in all classes of the community.

To produce a proper movement the *extent* of the task should be distinctly explained—You propose to discourage not merely intoxication, but intemperance. You do not wait for the degradation of ebriety, but sound the danger of indulgence. No human being is so debased in mind and manners as voluntarily to abandon himself to the consequences of excess with a deliberate understanding before hand what those consequences

will be. He is led on slowly, darkly, by degrees, to remediless ruin. The great utility of your exertion is to prevent the first step; to forewarn the rash, admonish the inconsiderate, bar *their* approach to the Tyger's cave and keep *him* from leaping on them; to deprive folly of its excuses, and wilfulness of its impunity, and where virtue is too feeble, to sustain it by self respect.

Ignorance, temptation and security from public censure are the great recruiting officers of intemperance. These you would drive from their posts. The advantage of general intellectual cultivation in discouraging intemperance is obvious. All vice, and this among the rest flourishes by ignorance as ghosts gather at midnight. Education with its public and private schools, lectures and institutes is the preservative machinery of society. Its effects on the condition of mankind—often the theme of eloquence—need not be discussed before this assembly. In learning exact details connected with the subjects of this association much has been gained. The immense waste of life by intemperance is ascertained with frightful accuracy, and the one hundred hecatombs of American citizens who have annually perished in its service are summoned before you as witnesses of its wrath. The crimes and diseases and pauperism it has generated are enumerated with awful distinctness until astonishment at their magnitude equals abhorrence at their depravity.

Impressions which are vague and indefinite, when the mind is drawn to large masses or distant objects, are rendered vivid and indellible by the reality of a single exhibition—Our Samaritans have therefore not only bound up the wounds of the sufferer, but they have brought back the priest and the Levite from their path of ease or indifference, and compelled them to stand and contemplate this spectacle of horror.

That self-deception has been exposed, which is the commencement of vice; and men have been taught to see in habits which left the power of voluntary action unimpaired while they irritated the temper or stultified the mind, the disguised form of incipient intoxication. They have learned that many, whom

nature had been accused of making peevish or irritable or revengeful or malevolent, were only beginning to make themselves beasts.

In most other matters injurious to the character a single act bears on its front evidence of criminality. Fraud, felony, perjury, gaming, licentiousness, though aggravated by repetition, proclaims in every *single* instance its own infamy ; but acts which terminate in the vice of intemperance and the crime of ebriety are each by itself under some circumstances not always liable to censure. The wrong consists in doing often or without sufficient reason what there might be no harm in doing with sufficient cause. The boundary between right and wrong is imperceptible, and is passed to some distance before a transgression is discovered. Character is crushed under a multiplication of little weights—Men perish like travellers in those deserts where swarms of minute insects, each too small to be regarded—break their repose, exhaust their strength and terminate life.

You have taught them that danger lurks all along the road, and that he only is secure who is constantly armed in his defence.

Temptation to intemperance grows out of some of the habits of society and the hospitalities of life. Men drink for companionship, for civility, for forms of friendship. One class is allured by the fine flavor and sparkling beauty of the beverage, another by the cheapness of the material ; and harmless gratification grows into vice.

The ease with which the means of intemperance are procured, and in some cases are forced on the simple and inexperienced, is the most fruitful cause of these temptations, to which many owe their ruin.

Aware of this, the Legislature of this Commonwealth intended to put all places, where its materials are vended, under the guardianship of the laws, in the firm belief that the security of the public mainly depends on the wisdom of legal provisions, and the manner in which they are executed.

It is to be regretted that the Statutes of this Commonwealth

in regard to an object so important, taken in connexion with their operation by actual experiment, are incompetent to the purpose. They embarrass the fair trader without controlling the operation of those, who live upon the evils they were intended to prevent. That they are little adapted to the exigencies of our society may be easily supposed, when it is remembered, that they are mostly transcripts of colony ordinances, passed from 1645 to 1661, and chiefly within twenty years after the first settlement of this metropolis.

At the risk of being tedious, by going more into detail, than might seem proper in this mixed assembly, I shall ask your attention to some of their provisions, in which much that is good in theory is of impracticable operation, and much that would be exceedingly useful, if enforced, becomes by neglect of little practical value.

All houses of public entertainment and all persons dealing in ardent spirits, in quantities less than twenty-eight gallons at one time, are placed under the operation of these laws, with like penalties, whether the character of the establishment be that of a magnificent hotel, suited to the requirements of a great city, or a mere receptacle for vagrancy and vice ; whether they be regular dealers trafficking in a fair business, or ministers to the low passions and unhallowed pleasures of reprobates and prodigals.

The pecuniary penalty is so high, that in many cases it ensures the impunity of the offender, because to exact it, would be his ruin.

Some prohibitions are obsolete, so that to enforce them would seem invidious ; yet while they remain unrepealed, a prosecution may serve--and often does serve less to promote the public peace than to gratify some personal ill feeling. The laws as they now stand not only prohibit certain acts and establishments that no decent society can tolerate, but all assemblies for dancing and all playing at quoits and bowls and similar amusements in the houses, yards, gardens or dependencies of licensed persons.

Other of the wiser provisions of these laws are in many parts of the Commonwealth, where they would do the most service, altogether inoperative. Thus the intention of the Legislature undoubtedly was to put all licensed establishments under the actual inspection of a sworn public officer, and it is accordingly enacted, That each town shall annually choose a Tythingman, whose duty it shall be carefully to inspect all licensed houses, and inform of all disorders and misdemeanors therein ; and it is made a misdemeanor in any licensed person to allow any indulgence 'to minors, servants, idlers, swearers, cursers, sabbath breakers' and the like offenders.

It is obvious that in some places there is no Tythingman, or there might as well be none.

That personal inspection, which is at the foundation of all the good expected from the laws, in regard to persons licensed, is an entire delusion. Places of misrule and licentiousness are crowded with minors, servants, idlers, and swearers. Schools of vice are as well filled as those of learning, with apter Scholars, and more interested teachers ; and the expenses of these establishments, which reverse all the advantages of public education, are—without any act of appropriation by the City Council, indefinitely levied not only on the revenues, but the manners and morals of society.

Every one conversant with the administration of justice knows that punishment for crime follows only on conviction in due course of law ; and that such conviction must be preceded by a complaint of the exact offence, and by the testimony of some witnesses having precise knowledge of the act. Public rumor and common fame may satisfy any one but a Jurymen. The moral certainty, which we get by report, passes for nothing in a Court of Law. Now the duty of obtaining the proper evidence, by making personal visits to suspected places, is devolved on a public officer charged with the trust. If it were strictly executed, the danger of detection would be too great for any extensive experiment of systematized violation ; but it is equally clear, that as the supervision contemplated by the law is diminished, the danger is lessened ; if there

be no centinel to go the rounds, or if he slumber on his post, the enemy he ought to watch, may make his incursions without fear.

If the Legislature had not relied on this provision, some other would probably have been made, which does not now exist.—The neglect of this is therefore the subversion of the system. Courts are censured for an inactivity they cannot avoid. Men, who live by the violation of all honest principles, gather courage from impunity and laugh at the imbecility of justice. Vices multiply, crimes increase, families are ruined, the best hopes of the country are blasted, the country itself is disgraced, because the means of enforcing the laws are wanting—because the law itself becomes a mere story on paper, that sounds well and looks very prettily, but is as deceptive as the returns of an army, where every man's name who had ever enlisted is borne on the muster roll, although he may have been dead, for ten preceding campaigns.

This peculiar power of visitation may be antiquated and vexatious. What then? Let it be substituted by some other that shall be practicable and efficacious. Do not pretend it is alive, when it has long been *quietly inurned*. Do not affect in theory to rely upon it, and wholly fail to exercise its power. Under existing circumstances it is worse than the wooden guns of a disguised merchantman. It no longer deceives the enemy. It deludes only ourselves.

But the wise framers of these laws did not rely on this provision alone. They intended to put the whole traffic under the supervision of a responsible magistracy, in the belief that there would be public virtue enough to support them in a vigilant, exact, rigid execution of a difficult and delicate duty. It becomes us to inquire how far they have been successful?

Under a sense of the great danger to the community that would result from the unlimited number of licensed establishments, they provided that the Selectmen should annually certify to the Court of Sessions, what number of innholders and retailers they judge to be necessary for the public good; and the Court is directed not to license more persons in any town

or district than they judge necessary for the receiving and refreshing of travellers, and strangers, and to serve the public occasions of such town or district, or are necessary for the public good.

The construction put on these enactments renders them utterly nugatory. If the number which the Selectmen judge necessary for the public good, be exactly the whole number who apply, and if the licensing magistrates concur in opinion that all who ask may receive, it is obvious there is no guard against any conceivable multiplication of licensed houses. But if the laws meant that these public officers should determine the necessary number for the year, before applications were made, and assign the right of selling liquors—like a seat in the House of Representatives, not by asking how many want to go, but how many the constitution permits—there would be some practical value in provisions that now only delude us. (Note C)

Had the original policy of the laws been adhered to by the Legislature itself, many of the existing evils notwithstanding the circumstances already pointed out, would never have occurred ; at least those of them would have been prevented, which are fostered in some of the licensed houses of this city.

By the law of 1786, ch. 68, all persons licensed to sell liquor are divided into two and only two classes. The first called indifferently Innholders, Taverners and Victuallers, and the second Retailers. These last were absolutely prohibited from vending any strong or mixed liquor to be ‘drank in their houses or the parts or dependencies of the same,’ and no person could be licensed for the other class and be thereby permitted to sell liquors to be drank within his premises, unless he had suitable provisions and lodgings for the refreshment and entertainment of strangers and travellers, with stable room, hay and provender.

All those places therefore, which were too small for such accommodations, and that whole class of establishments which are now solely or chiefly devoted to mere drinking, were absolutely interdicted by positive laws. But in 1816 the Legisla-

ture made it the *duty* of the Selectmen of the town of Boston, to certify what number of Victuallers they judge necessary for the public convenience, who shall not be required to furnish accommodation for horses or cattle, or lodgings for travellers or other persons, and the names and places of business of persons by them approved therefor, and the Court of Sessions on this certificate was authorized to grant them a license. By the city charter the double duty of the Selectmen and Court of Sessions in this respect devolves on the Mayor and Aldermen, and under this presumed authority, all those places are licensed where liquors are sold and consumed, and where the only design of the establishment is to furnish strong drink.

If it be said, as it may, that the existing evils prevailed before, and are not attributable to that law, the answer is, that notorious violations of the old Statute preceded the new one, out of which *violations* the evil emanated. Many retailers, against the express provisions of the law, permitted the liquors, which they sold, to be drank in their shops ; and in some cases, arising out of the peculiar condition of a populous town, it seemed to be required for public convenience. But the growing departure from the original design of the law attracted attention, and prosecutions were instituted, when the whole fabric was made to give way before the pressure of interested individuals, and the law was essentially changed.

At the time of this last alteration and as some compensation for it, a new guard was imposed by the Legislature against some of the evils that might arise out of the system, and all persons were prohibited doing the business of a Confectioner without license, and were made subject to a fine for uniting that business with *retailing* spirituous liquor. The obvious design of this wise provision was to prevent in a place like a Confectioner's shop, which has a strong attraction for children and youth, and for females, the allurements to intemperance by the vending of cordials and other liqueurs in a sweet and deluding form. How effectual the intention of the Legislature has been, may be judged from the fact, that since the organization of the City government the average annual number of

licensed confectioners is only five—[this year two] and that the rest may take out a Victualler's license and sell strong liquors under it with the protection of the laws.

It is stated that the whole number of licensed persons has been for some years diminishing, and is now less by sixty-nine than in 1823, when there were six hundred and seventy-nine—[Note D.] Hence it is inferred that the injury done by licensed establishments is diminished. This is delusive. (Note E) The diminution has taken place in the class of retailers properly so called, by whom little or no injury is directly affected, and whose places of business are orderly and quiet; a class that contains respectable wine merchants, and should, if the law was enforced, embrace all who sell champaign by the basket, Maderia by the dozen, or beer by the keg. But even this reduction is not because there are in fact fewer retailers, but because men, who once took out a license, now pursue the business without one. And here again another material change of the law is to be noted. When the statute gave half the penalty to the informer it was dangerous to risk the violation of it. Since that inducement was removed complaints are unfrequent. Some of our respectable fellow-citizens choose to run the risk of being charged with a penalty; others scarcely know what the law requires of them.

But the class of licensed victuallers has increased, and it is among that class that most of those enormities are practised, which give serious cause for complaint. Let it not be understood that all of this class are included in a general censure. By no means. Many worthy and estimable citizens have a victualler's license, and conduct under its protection an honest and respectable business. But most places where wild and riotous disorder and brutal intoxication and all the crimes that it generates are constantly exhibited, are protected by a victualler's license, if they have a license of any kind.— (Note F.)

Again, all persons are bound in a pecuniary penalty to the Commonwealth. Taverners and Victuallers, among other things to suffer no disorders nor unlawful games, and retailers not

to break the laws. About five thousand of these Bonds have been taken by the city authorities but there is no single instance on record, in which their penalty has ever been enforced. (Note G.)

These statutes should be amended and made to conform to the exigency and present condition of society. Penalties which are too high should be reduced, severe provisions should be mitigated, but the law itself should be executed with decision. No open and notorious infringement should be tolerated; no artful and fraudulent evasion should be allowed to bring it into contempt. It should be so contrived as to satisfy upright and honest men; and these, feeling its value, should be ready to support it. (Note H.)

In a republican government the laws will not execute themselves. They demand the aid of the people. They require the countenance of good citizens to support them against the assaults and evasions of that restless class, who are annoyed by their prohibitions. If there were no disposition to violate the public peace, no law would be necessary to preserve it. But there is such a disposition; a crowd of interested and angry men press upon it; and they will succeed in overturning it, unless it is shored up by the spirit and patriotism of the people. Men must *do* something, as well as *say*, something in its favor. The subjects of a German Electorate, where a free constitution was recently introduced, complained that it was very hard, that as they paid the Duke to govern them, they should be required to do part of the business themselves! There is no such cause of complaint under a despotism. The law there needs no popular impulse. But the compensation we pay for a republican government is the necessity of managing its concerns. It is the people's government, and they must carry it on. We are willing enough to do so, when public honors are to be distributed and magistrates chosen, but the less agreeable though not less important duty of enforcing the laws, is quite too burthensome a task. It is every body's business, and nobody does it.

If in open town meeting a proposition should be made to repeal all laws against public establishments for gaming and in-

temperance and licentiousness, no man would be hardy enough to raise a voice in support of it. Then the high moral feeling of the community would be roused, a sense of honor and principle and public virtue and the character of the country would be excited, and the proposition be scouted as equally infamous and insulting.

How are we better off with unexecuted laws, except that our professions are less exceptionable than our practice? How do we now justify our self respect, when such places notoriously exist, in open, undisguised, unblushing effrontery; when establishments of an infamous character, bear on their sign-boards a notice, that their occupants are licensed by public authority; when others disdaining to ask this permission, which seems something like a renewal of the ancient popish indulgencies for sin—openly violate every provision of the laws, and do it from year to year with most perfect impunity. (Note I.)

To all effort to amend the laws, or ensure a better execution of them it is not unusual to hear great popular clamour against any legal interference. Why should a retailer—it is asked—be under more regulation than a merchant? Let every man manage his own affairs in his own way. Is not this a free country, and may we not get a living by traffic and merchandise, whether we deal in large or small quantities at a time? To interfere in men's private affairs is despotic; to attempt it impertinent.

Such sophistry, idle as it seems to well instructed minds, meets a ready hearing from all whose interest it encourages, and a cold indifference from those who might decide impartially. It is this indifference which is fatal. The relaxation of many of the most wholesome provisions of the license laws, and other laws for the protection of good morals, is owing to the pressure made by one class on the public authorities without any considerable counter force by another. Courts are occupied not in stopping the evils at the source but in punishing their victims, when punishment only adds one evil to another, and aggravates both. Jails are crowded. Alms houses are filled, the public expenses are increased and private

charity exhausted for the want of a little vigor properly exerted at the proper time ; for want of a strong public sentiment, that giving assurance of support and approbation would enable your elective officers to execute the system with firmness and uniformity.

In further answer to complaints on this subject boast is made of occasional vigor. It is said the law is sometimes put into operation. So it is—Now and then by a spasmodic effort it is roused from its lethargy, as if it was possible to compensate, by temporary energy, for the defect of regular discipline. Little rogues submit to fate, while the larger break through the meshes of the net, and swim wild and free in their native element of iniquity. A storm is raised for a day, but it is succeeded by the genial sunshine of security, in which all the vermin of the moral atmosphere are engendered in loathsome fecundity.

Sometimes excuses are attempted. It is impossible—it is said—to banish vice and crime. Great cities must tolerate great evils. The character of mankind generates moral as well as physical maladies, and the condition of human nature must change before you can change the condition of society.—So it must—But what then ? Must we submit to impurity and contagion because we cannot eradicate disease ? Are we to pass our lives in the very pest-house of infection, because we are liable to death ? Is it consistent to shut the hand of charity because all poverty cannot be relieved ? May we content ourselves with saying to the naked and destitute be ye warmed and filled, notwithstanding ye give them not those things which are needful ?

But the excuse however plausible is not sound. Efforts and exertion will do enough. We can banish the prowling wolves to their native seclusion. We can drive them from the homes of civilized man. We can force the venomous serpents back again into caves and deserts, and prevent their fangs from being fastened on our children.

The state of probation in which a wise providence has placed us, seems to require an interminable warfare, and he

who has not courage to gird himself for the battle, must fall recreant before the foe. But the magnitude of the contest is no cause for despair. It strengthens the arm that can be nerved only by exercise. It encourages the heart to meet great difficulties, by successive triumphs over small ones. Ask a blessing on the use of means, and trust in God for the consequences. But use those means, or you perish.

A more dangerous heresy is that which undervalues the efficacy of judicial restraint. "Laws"—said one of my most esteemed predecessors*—"only operate when the mischief is done." If it be so they are worthless. It is to prevent the mischief that we invoke the power of the State. It is to shut the flood gates of iniquity, that we implore the arm of the law. It is precisely because there is no process of resuscitation for the drowning man, that we demand of the law to dam up the stream, and prevent the overflow of those waters, whose course is destruction.

Where do those habits begin which fester and gangrene the soul? Not at home.—Not at home! All the proud feelings of life are lost, before the altars of the household gods are desecrated, and the sacred decencies of the domestic circle are trampled on and defiled.

Where does that recklessness first display itself, which draws drops of agony from a parent's heart? Not at home. The infatuated prodigal goes abroad to escape the reproof of paternal authority; to spare himself from witnessing a mother's anguish, when the cautery of his guilt first burns that bosom that nursed his infancy in love.

Or has the pollution seized the head of the family? He dares not begin at home, the exhibition of his infamy. Nature is stronger than principle. His children enforce the appearance of integrity, long after virtue has departed. He shuns to the last moment of tottering reason, the practice of that vice before her, who suffers from it indescribable misery.

* Charles Sprague, Esquire, in the beautiful address delivered by him before this society, in 1827, in which there is so much for every body to admire, that there is more danger in any sentiment which is of doubtful utility.

“The hearth is indeed dark”—says our eloquent friend—
 “that he has made desolate. There, through the dull mid-
 “night hour, her griefs are whispered to herself; her bruised
 “heart bleeds in secret. There, while the cruel author of her
 “distress is drowned in *distant* revelry, she holds her *solitary*
 “vigil, waiting yet dreading his return, that will only wring
 “from her by his unkindness, tears more scalding than those
 “she shed for his transgression.”

And where is that revelry? One class seek it in the saloons of a costly Hotel; another in the cheap bar-room of a drinking shop, places which equally exist by permission of the law, or in violation of it, and may be closed or controlled by a proper exertion of its power. (Note J) There are the allurements in apt form, for all the mad men of society. There meet associates to encourage and inflame each others perverted imaginations. There depravity throws off the restraints of decency and finds ready ministers to all the requirements of voluptuousness. There is the gaming table, whose necromantic spell binds its votary in chains of adamant, and prepares him to obliterate the recollections of one vice, by the excessive indulgence of another.

“We may”—it is said—“fine and imprison a poor wretch now and then for intoxication, but it will go only a little way to reduce the evil, it will not teach him temperance.” If the law can do no more, it would be well to close the Courts of Justice.—It may and it should search out those places where the *leperous distilment* is exhaled. It may and it should demand back those ill gotten gains, which the established panders of vice gather from lewdness and blasphemy and gaming and intemperance. It should identify the wilful distributors of poison with the receivers of it, the ruffian who prepares the torch with the incendiary who spreads the conflagration, the accessory who sharpens the dagger with the suicide of reason, whose unassisted arm could not perpetrate the felony.— (Note K)

Vagrants that come under the eye of the police are the least considerable class of victims fattened in vice, in these

modern caves of Polyphemus. Young men of education and talents, and fair prospects of life, here waste their health and their character, are allured into expences which they have no honest means of discharging, and are goaded into the perpetration of heinous crimes to pay the debts their profligacy has contracted. (Note L)

May not the law do something for the security of the citizens, by an effective prohibition that should take away the power of further molestation, or a punishment that would make a repetition of it dangerous? Can the Commonwealth do nothing in the plenitude of its magistracy, or wait we

—————Some chosen curse,
Some hidden thunder in the stores of Heaven,
Red with uncommon wrath, to blast the man————

Who lives on the desolation of innocence. It is further said 'We may lessen the number of dram shops, that pour forth the stream of abomination in every hole and corner, but we all know that many a man becomes a drunkard before he sets his foot within one.'

And we know too that if he had not set his foot within one, many a man would never have become a drunkard, who is now lost to himself, to his friends and society. If there be other nurseries of intemperance, these are the most prolific as they are the most numerous—attracting visitors within their skreens from curiosity or amusement, and repeating the temptation till they are consumed in the light that decoyed them.

It would be a mere idle wish that all the causes of intemperance could be concentrated and cut off at a blow. It is a Hydra with many heads, each of which in succession must be slain. The main arteries are supplied with their life blood from these sources, and it is unwise to delay operations against one because all cannot be simultaneously destroyed.

No man can listen to the testimony monthly repeated in our criminal Courts, without being sensible that a great pro-

portion of crimes originate directly or indirectly from these receptacles of abandoned men, nor without feeling some degree of horror that in a community of religious and sensible men, they are permitted to exist, and exist too with very much of the approbation of law.

Whether the cause of temperance or the desire of protecting the property of our fellow citizens, or lessening the public expenditures in relation to Courts of Law, or eleemosynary establishments or the preserving the appearance of good order and good manners be consulted, the slightest examination would show the necessity of a thorough reform in the whole system of these licences.

Some other cities are infested with a similar scourge, and some others are not. It is therefore not a necessary weight. But if they existed the world over, it is no excuse for us. Without expecting to be better than the rest of mankind, we ought not to be willingly worse, and surely we may not affect to be satisfied with our present condition, when we not only tolerate the evil but foster and support it, when against the conviction of all men, having practical knowledge of the subject we permit cold calculations of individual interest and pitiful pursuit of personal popularity, to weigh down and keep down the permanent and vital interests of the community.

To every project of reform objection may be made, and wherever the besom is applied the inquiry is always suggested, why take this and omit the other? The answer is a plain one. Begin with the most obvious evil over which you can exercise a controul. If you may not do every thing, do not let your inability for the mighty task excuse doing nothing. Cut off from one half the population, the easy means of intoxication and what is worse, that seduction to become intemperate, which now operates under sanction of law. Do not permit them to be allured, urged, pressed into receptacles of dangerous depravity. When you have done this you may profitably turn your attention to the carousings of the evening club and to those who are 'boasting the age of their foreign liquors and recounting the various voyages, that have rendered them so

exquisite.' Obstruct those 'who do the deed,' and then pursue those 'who do all *but* the deed.' But let it be remembered, that a wise economist, begins where the greatest good may be effected, and proceeds gradually and systematically on his road of improvement. The multitude are corrupted and besotted and made wretched in these hovels of crime, sanctioned by a city licence. A few—too many indeed but comparatively only a few—bow beneath the yoke, in other territories of the general tyrant ; A few—more than can be spared but still only a few—desert the standard of temperance, at the invitation of other leaders in the enemy's service. But let us rout his main body, and the field is easily preserved against the incursions of his light troops and feeble commanders.

But we are as good as our fathers ! The present generation is as moral in its habits, and correct in its deportment as any preceeding one.

Suppose all this. Is it not more enlightened—better informed—more refined, more polished, more intellectual, and striving to be more so every day.

Can we permit the moral character to be stationary—when to be stationary is to be comparatively worse. What is the use of our advancement in knowledge and science and, art unless to produce the only valuable result, that of making better men.

But the first proposition is not to be taken without limitation. In some respects it is true. But crimes that come under the eye of the law, are not less numerous or less glaring. Those that escape public reprobation are quite as many. How much of what we call the moral improvement of the age, is the result of general prosperity, which by opening sources of honest emolument diminishes temptations to base ones ? How much is attributable to a change in the modes of iniquity rather than a positive reduction of it ? Vice may be more costly and elegant and fastidious in its indulgencies, but it is vice still—The topic is interesting but there is no time to enlarge upon it.

“Prevention is what we want.” That is indeed true. Let the law then overturn the altars and shut up the temples and scatter the ministers of intemperance, and it will in some good degree cut off that loathsome idolatry which imprecates wretchedness and perpetuates misery.

Laws may not *make* men honest, but they have great tendency to *keep* them so. What would be the condition of society if there were no laws against theft, and if all private property was protected only by moral motives. The upright and honorable would not change their conduct, but the rapacious and violent would ravage the country. So men who regard with proper feelings the duty of temperance are not made more circumspect by force of law, but how would it be with that numerous class, on whom moral and religious considerations weigh nothing, in comparison with profitable traffic or strong passion?

Diminish the opportunity for excesses, and they are lessened; the putridity of bad examples is diminished, and the disease, which before was contagious, becomes merely endemical. Reduce to a very considerable extent the number of places that can be kept up only by the actual profits derived from vice, and vice must in some degree be reduced with them. It is not a question whether you can prevent the sale of intoxicating liquors, nor whether under the best system of well executed law they will not abound in amazing quantities. Possibly they will. The true inquiry is whether laws may not be framed and put in operation, which will check the progress of this mighty evil, and whether that check—be it less or more—is enough not to encourage exertion merely, but to demand it, to put it to the conscience of legislators and good men as an imperious duty, which neither religion nor morality nor the temporal interests of their fellow citizens allow them to neglect.

With the aid of the law we shall have done much but not everything which the case requires. We must guard our own habits and inclinations, and tastes. But we shall find this an easier task. We shall have crushed those temptations and broken up those facilities which now counteract all the exam-

ples of domestic economy and the morality of the household board, and which seduce the fancy and lead away the inclination even against the better suggestions of judgment.

The task is a mighty one. There is an awful current swelled by the confluence of many streams, which it is dangerous to pass. There is a popular clamor, that sends up its threatening shout as in old times, '*By this craft we live*'—'*Great is Diana of the Ephesians.*' There is settled custom and strong habit that bind us as slaves to the car of the conqueror. But there is a power above us, that can 'gather the floods together as an heap,' and still the tumult of the people; and break the oppressor's chains, and let the oppressed go free.

The *limits* of your recommendation should also be understood, that its efficacy may not be diminished by an erroneous imputation of impracticable severity.

It is not your intention to renounce any one of the real gratifications of life. If we give to business and duty hard hours of toil and fatigue, we take the reasonable liberty of occasional relaxation, and the grateful opportunity of an unbended mind. We seek cheerfulness and gaiety where they may be innocently found, and claim a liberal portion of that good fare, which a beneficent Providence has scattered in kindness on our way—
We taste

————— the cups
That cheer but not inebriate—————

and may lawfully follow the Apostolic direction to 'take a little wine'—

And why not? We are not Musselmen! We have no Alcoran of superstitious observances. We find nothing wrong in the regulated enjoyment of social intercourse, the sweet communion of the domestic circle, the conviviality of friendship, the moderated festival days of charity and gratitude and love. We find no intimation to abstain from rational indulgence in the munificent liberality of that Providence, which planted the rich vineyards of Palestine and 'caused wine that maketh glad the heart of man,' and 'bread that strengtheneth man's heart.' We are followers of the inspired teacher of the

sublime morality, who places virtue in the *regulation* of the appetites, and not in their annihilation ; of that divine personage, in all respects such as we are and yet without sin, who went about doing good, whose first miracle, on one of those interesting occasions, dear alike to religion and to love, ministered to the allowed hilarity of his companions, by converting water into wine ; and whose last act of affectionate anxiety for a redeemed world was a benediction on the wine-cup at the parting supper of his chosen disciples.

There is always danger in the excesses of reformation. Good principles may be stretched so far as to offend by their unreasonable austerity, or disgust by a pretended sanctimoniousness, often feigned and generally futile.

Such we apprehend is the error of those, who interdict the juice of the grape. The self-denial of a lawful gratification, for the sake of encouraging others to resist one that is unlawful, may sometimes have a good effect, but is more frequently the occasion of suspicion, and drives men to evasions, excuses and secret indulgences.

The success of your efforts needs neither exaggeration of their objects nor extravagance in their means. Your cause addresses itself to the common sense of the people. If that common sense is wanting, it is not your cause alone that must fail, but our free institutions, our political establishments, and the whole fabric of our civil government. They all rest on the truth of the hypothesis that the people have ability enough to understand, and virtue to practise what is essential to their prosperity. There is therefore no more danger in conceding their moral than their political rights.

But let no man in either case use his liberty as a cloak of licentiousness.

Again, it is objected that we demand a sacrifice from the poor, which is not demanded of the rich.

We ask a sacrifice of no man, and least of all that he should sacrifice himself. The use of ardent spirits is found by the concurrent testimony of medical men to be never beneficial, often injurious, and always dangerous, and we invite all per-

sons, rich and poor, to refrain from using them, not as a sacrifice but a blessing. Vinous and fermented liquors, by the *abuse* of them only, are of like tendency and we earnestly entreat all persons, rich and poor, to refrain from the abuse of them.

But why do we talk in this country about rich and poor, as if they were permanent classes? We have no statute of entailments for the one or the other.

Three generations ago the ancestors of our rich men were in the working classes of the community. Three generations hence their descendants will be found in the same rank, unless they have something better to depend upon than patrimonial property. Let the poor be sober; if the rich are intemperate, their relative condition will soon be reversed.

There is one curse that will forever weigh down, and keep down all the prosperity of the affluent, and all the hopes of the poor. It is the curse of *INTEMPERANCE*.

Gentlemen—We look forward with an eye of faith and encouragement. We look in the progress of time for that maturity of mind, which shall direct the conduct of man under the influence of moral motives and the principles of virtue.

It is the will of our Almighty Parent that all things shall work together for his glory; and it is our consolation and delight to believe, that his glory will be established by the virtue and consequent happiness of his children.

NOTES.

Note A, page 6.

Among these is one recently established in the Army of the United States. An exceedingly well written address has been delivered before the Society.

There is much encouragement in this auspicious beginning. It will diminish, it is hoped, the consumption of that enormous quantity of whiskey advertised for the use---or we might rather say the destruction of the army, and more fatal to its existence than the dangers of an active campaign.

Note B, page 6.

The Governor of this Commonwealth has set an admirable example in this respect. One of the largest farms in the County of Worcester, as well conducted as any in the State, is managed through the year without allowing ardent spirits to the laborers. They are contented, and their work is better done.

Note C, page 12.

The report of a Committee of this society made 8th March last has proceeded on an hypothesis that there is a diminution in the consumption of ardent spirits in proportion to the diminution of licences. But it is respectfully submitted to their consideration that this cannot be correct unless the sale of liquors is wholly prevented in unlicensed places. It is known that more unlicensed persons now sell liquors than at any former time, and in many cases the most dissolute transgress the law. The great want of an efficient police in this respect is an encouragement to intemperance.

Note D, page 15.

The number of licenses are as follows :

	1822	1823	1824	1825	1826	1827	1828	1829
Innholders,	57	38	44	38	34	39	41	59
Victuallers,	496	530	518	556	515	504	536	532
Retailers,	113	103	65	43	17	17	13	17
Confectioners,	9	8	3	5	5	5	3	2
Total,	675	679	630	642	572	562	593	610

The class of Innholders it is seen is increasing. Victuallers are under some restraint. They may not entertain after 10 o'clock at night nor at all on Sundays. But Innholders may. Hence the desire to exchange a Victualler's license for an Innholders, as before a Retailers for a Victuallers. It is a safe calculation to assume that there are more than three hundred persons in the city habitually selling liquors without license. They do not engage in this traffic as their sole or even their chief business but as subsidiary to some other, or temporarily, and therefore do not ask for a license.

Note E, page 14.

The ease with which a license once granted is renewed is something curious. The permission to sell liquors in the Tremont Theatre now stands in the name of LUCIUS JUNIUS BOOTH, a gentleman having probably as much interest in it as Pescara or Hamlet.

The Legislature in their wise care for the young members of the State provided that licensed persons should not give credit to any under graduate of any College, and that on being complained of for the breach of this law by the President or other designated officer of any College, the license of such offender should not be renewed. Now this Statute is notoriously violated. Young men are ruined, the expense of their education is wasted, and instead of good literature, all seeds of vice and iniquity are sown in these hotbeds of corruption ;—but no man's license has ever yet been obstructed by means of this provision of the law.

Note F, page 14.

Recently a young man of good parentage was convicted of stealing, at divers times, from a store in which he was employed as a handcartman. The goods were sold at auction and the proceeds wasted at a gaming table kept in one of these places. Evidence was given that the place was nightly frequented, as the witness said, "by gentlemen's sons, young store-keepers and counter clerks," often amounting to fifty at a time. Some other attractions were occasionally introduced, the details of which cannot be stated. As this place had been in existence for some time, it could not have escaped the examination of such an officer as the law intended to charge with a general superintendence of licensed establishments, if any such has been actively employed on the duty.

Note G, page 15.

Either the law requiring such Bonds should be repealed or some effort should be made to ascertain whether the condition of them be observed

Note H, page 15.

The extent of the power of the law either in granting or refusing the means of indulgence may be seen from one or two facts.

The Bars of the Tremont Theatre have been considered worth on a lease \$3700 per annum. It has been said that four thousand dollars might be received for them. The privilege for which this great rent is paid, is that of selling coffee, cake, fruit, and liquors to the frequenters of the House. Most of the profit is no doubt derived from the latter material. The estimate of consumption to cover the expense cannot be less than three thousand gallons.

On a trial for selling liquors on the Lord's day it was testified that the receipts of the day amounted to \$87. The only article sold was Iced Punch for which the person had a high reputation !

The power of the law has banished ardent spirits almost entirely from our Common on public days. A little more vigilance would wholly prevent it. Children, females and others who cannot easily follow it to a Victualler's shop, are thus kept out of the way of temptation.

Note I, page 16.

Common fame has distinguished some of these within sound of the Court-bell, in the daily walks of the Mayor and Aldermen and other public officers, none of whom probably have that exact knowledge which could sustain a prosecution, --but which some officer, or some society of honest men ought to procure. It would shock some persons to be told that there are unlicensed houses, where young men are permitted to run up bills of two and three hundred dollars, in hope that their own generosity or the kind feelings of their parents would one day pay the principal, and that in the mean time compensation for delay is exacted with most usurious rapacity.

Note J, page 19.

One of the most talented young men of the age is now suffering in the State Prison for the crime of forgery. He had run in debt in these haunts of iniquity. To prevent the exposure of his folly he borrowed money of a friend, and paid the harpies who had fattened on his blood ; and to indemnify his friend, he committed forgery.

Another under similar circumstances was withdrawn by his bail, who paid the forfeiture for his nonappearance to the State, and sent him to the Pacific Ocean in a whale ship.

The cases are almost innumerable where property has been stolen to provide means for illicit indulgence in these places, or to pay afterwards in order to conceal what had been done.

Note K, page 19.

A difference is allowed in the public mind between the seller and the buyer on wholly erroneous principles. The keeper of a drinking shop, in exposing his merchandise for sale, appears to be laboring in his vocation. He is pursuing a regular business for a livelihood, and that is praiseworthy. His customers are indulging their appetites, and wasting their money in a course of pleasure, and that certainly is censurable. The man who only offers what *may* be innocently taken does well ; he who takes it, when it may *not* be innocently taken, is the only one to be blamed.

This logic proceeds on a false assumption of facts. Many of the places complained of are fitted up on the calculation and with the design to decoy passers by, to allure the idle, indulge the dissipated and entrap the ignorant, to lay a snare for the inexperienced and to impose upon the simple. They are established for the express and sole purpose of pampering profligacy and voluptuousness, and exciting desires, which they may get money by satisfying ; and they are maintained with all those appliances which make, if they cannot otherwise find the vices on which they subsist. When every body but the licensing magistrates know this, it is a pity that they should be officially ignorant.

Note L, page 24.

There will always be a combination among those who have a particular point to carry. The venders of Lottery tickets have more than once given a casting vote on a contested election. One of them boasted that the Legislature might pass what laws they pleased, but no man, who was concerned in executing them should ever be a member of the General Court. Some threats of the same kind have been made by men of other

classes, on whom the laws of the land for the preservation of good morals have operated with effect.

There is in this respect either a criminal inattention, or what is more probable a great ignorance on the part of men, who think they can regulate public opinion. A sermon, a tract, a review may abound in fine sentiments and pure morals and goodly discourse, but it deals with virtue and vice in the abstract. If any body is made better by it, he becomes so by his own voluntary act. The writer is lauded to the skies, because he has written or spoken well, and the worst men, even those who stand reprov'd in his discourse, dare not wag their tongues against him ; indeed it is their policy to praise him, that they may not seem to countenance the vices which they practise. But let the same thing be touched *practically* through the operation of the law, let the force and power of its penalties be applied and you may see the vast difference between advice and authority. It stirs a hornet's nest, and every venomous insect thrusts out his sting.

As a further illustration of the general subject matter herein discussed, the following letters are added.

CITY OF BOSTON, }
14th Dec. 1829. }

SIR—In obedience to the request of the Grand Jury for the County of Suffolk ; I would inquire of you—

“ Whether all active and vigilant measures have been pursued for the enforcement of the Law for preventing the sale of Lottery Tickets.

“ Yours respectfully,

“ JOS. MAY, *Foreman.*

“ JAMES T. AUSTIN, Esq. *County Attorney.*”

COURT STREET, DEC. 22d, 1829.

COL. JOSEPH MAY, *Foreman of the
Grand Jury for the County of Suffolk.*

SIR—I have had the honor to receive your communication of the 14th inst. in which you say that in obedience to the request of the Grand Jury for the County of Suffolk, you would inquire of me, “ whether all active and vigilant measures have been pursued for the enforcement of the law for preventing the sale of Lottery Tickets ?”

To this request I beg leave respectfully to reply, That the enforcement of the laws in relation to Lotteries, or any subject of the criminal code, depends on two circumstances.

1st. Those measures which precede the commencement of any prosecution of an offender and relate to the means of procuring of evidence that the law has been violated.

2d. Those which relate to the conducting of proper process before some judicial Court.

So far as the inquiry of the Grand Jury relates to measures appertaining to the first decision above mentioned, I have no official information, and no means of procuring any, which are not equally accessible to each member of your body, and every other citizen of the Commonwealth.

It is no part of the duty of the Law Officers of the Commonwealth to hunt after evidence of crime, or volunteer as witnesses against supposed offenders of the Lottery Laws or any other laws of the State. Their duty begins when it is necessary to appear in Court in cases in which the Commonwealth is a party ; and to conduct such prosecutions as are there pending.*

*Mass. Laws Ch. 18, of 1827.

No criminal prosecution can begin, until some competent witness is ready to state under oath, with necessary legal precision, the facts which prove the guilt, or supposed guilt of an offender ; and no measures can be taken in law for the apprehension or punishment of an offender, unless his crime or offence "is fully and plainly, substantially and formally described to him."*

Should any facts indicative of an offence against any persons come to the knowledge of the Attorney General or Solicitor General or any County Attorney by "common fame" it would not be competent for them to act officially in the case. "Common fame" is too vague and indefinite in her declarations to instruct a public officer in the form of an indictment ; and could never be admitted as a witness in a Court of Justice.

The laws against Lotteries are only a part of the criminal code, in no essential respect differing from the laws against felony, forgery or fraud. They are to be enforced in the same manner as other laws against Gaming Houses, Brothels, the selling of spirituous liquor without license, forestalling, regrating or any of the numerous municipal regulations which every one knows to be too often violated with impunity.

The Commonwealth has not empowered any of its law officers to search after testimony, or use the public money in paying for such search. The extent of their authority is to cause the appropriate witness of an offence to appear before the competent tribunal, after information is given them, who and where that witness is.

The policy of our government entrusts the enforcement of all laws—**FIRST**, to the voluntary exertion of the citizens. It supposes that when a bad man violates the law, some good man will complain of him. And this is generally sufficient. Every case submitted to your body at your last term, commenced by the voluntary testimony of some individual, who assumed upon himself, in the first instance, the task of making a complaint : —

SECONDLY. The enforcement of some of the laws is intended to be secured by dividing the penalty between the Commonwealth and the person informing of an offence. Such provision is contained in the last Lottery law. But I have not known an instance, in which the penalty has been claimed by an informer, nor a case, in which the hope of obtaining it was the motive for prosecution.

THIRDLY. The enforcement of the Laws is entrusted to those good citizens *in particular*, who are sworn "diligently to inquire and true presentment make of all such matters and things as shall be given them "in charge."

Each gentleman who takes the oath must construe for himself the nature and extent of his obligations in this respect. He must decide the point not merely in reference to the Lottery laws, but all other laws in the Statute Book ; and he may on proper representation command the compulsory powers of the government to procure the attendance of witnesses in relation to any offences specially indicated.

The last lottery law provides that all Justices of the Peace shall on complaint of any person or persons made under oath or affirmation of the violation of said act or either of the acts to which it is an addition issue warrants for the apprehension of the offender or offenders and shall if they see cause bind him or them over to the next Supreme Judicial Court or Court of Common Pleas to be held within their respective counties or to the Municipal Court within the City of Boston to be tried for such offence.

*12th Article Mass. Bill of Rights.

I have no knowledge of any official acts of any Justice of the Peace under this provision. No person has been bound over to the Municipal Court by any magistrate for the violation of the Lottery laws.

The same law further provides that "the Mayor and Aldermen of the City of Boston be authorised to direct the officers of the City as they may judge expedient to prosecute and bring to trial in any Court proper to try the same any offenders against this act or any of the other laws of this Commonwealth for the suppression of Lotteries."

Whether any thing has been done by force of this extraordinary provision, the Grand Jury can better ascertain by application to the Mayor and Aldermen. I can only say that I have never received any instructions from that quarter to commence any prosecutions.

With regard to the second branch of the proposed inquiry, viz: the conducting of proper process before some Judicial Courts, what the Grand Jury require will be learned from a transcript of the Records.

I have the honor to annex a list of twenty-eight prosecutions commenced under my care.* To the names of the parties charged are appended the several penalties inflicted upon them on conviction, amounting in all to *fourteen hundred and ninety* dollars and eighty-nine cents.

With the permission of the Grand Jury, I would submit an opinion that since these prosecutions the sale of Lottery Tickets has greatly diminished. No advertisements in relation to Lotteries now appear in the public papers—several of the largest dealers are known to have discontinued the business; others are obliged to observe some measures of concealment, which diminish the extent of their negotiations. No signs, indicative of a place where tickets can be procured, *in such form as come within the prohibition of the laws*, are known to me to be exhibited, but if the Grand Jury or any individual member thinks he discovers them as he walks through the city, and will give testimony of the fact, or will indicate where such testimony may be procured, the question in this respect can be speedily settled.

It is certainly true that violations of the lottery laws, and of most other laws in the criminal code, may be presumed to exist. To prevent or to punish them is among the objects for which a Grand Jury are assembled. The public officer who draws an indictment cannot with propriety be a witness to support it. Evidence must come from other sources, from good citizens in virtue of their general duty, or from those guardians of the public peace who feel any particular obligation to make diligent inquiry, or from such informers as may be tempted by the reward, which the liberality of the Legislature has provided for the service.

The occasion authorizes me to say, that in my opinion, and with some means of observation, the sale of Lottery tickets has a most pernicious effect on the peace, security and morals of the community. I have scarcely known a greater cause of juvenile delinquency. A vast number of offenders against other laws have learned the way to the criminals' bar through the temptations of a lottery office. Stolen property has been largely invested in tickets, and it is not to be doubted that the desire of obtaining them has been a strong inducement to theft. When the community shall be seriously impressed with these facts the laws will probably have a more perfect operation and the sale of lottery tickets be effectually suppressed.

Very respectfully,

Your obedient serv't,

JAMES T. AUSTIN.

*It is not necessary to add this list to this publication.